THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO.8090 of 2004 And A.S.NO.833 of 2001

27th February 2007

WRIT PETITION NO.8090 of 2004

Between:

Jami Satyanarayana, S/o.Adinarayana, Hindu, 50 years, Driver, residing at D.No.1-11-13/A, Lakshminagar, Shivajipalem, Visakhapatnam.

...PETITIONER

AND

Andhra University, Represented by its Registrar, Visakhapatnam.

...RESPONDENT

A.S.NO.833 of 2001

Between:

Jami Satyanarayana, S/o.Adinarayana, Hindu, 36 years, Lorry driver, residing at D.No.1-11-13/A, Lakshminagar, Sivajipalem, Visakhapatnam.

...APPELLANT

And

1. Andhra University, reptd.by the Registrar, Waltair, Visakhapatnam.
2. The Visakhapatnam Municipal Corporation, reptd.by its Commissioner, Asilmetta Junction, Visakhapatnam.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO.8090 of 2004 And A.S.NO.833 of 2001

COMMON JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Since these two matters arise out of a common judgment disposed of by the Chairman, Special Tribunal-cum-District Judge under the A.P.Land Grabbing (Prohibition) Act, Visakhapatnam, they are taken up together for disposal.

Heard Sri M.S.R.Subrahmanyam, learned counsel, appearing on behalf of the petitioner and Sri V.Rajagopal Reddy, learned Standing Counsel, appearing on behalf of the respondent-University.

Briefly stated, the facts of the case are that the petitioner/appellant herein claimed the property in question in pursuance of the registered sale deed dated 02.11.1980, followed by a permission granted by the Municipal Corporation, Visakhapatnam on 04.03.1989. According to him, his vendor had purchased the said

property as long back as on 13.03.1974. Therefore, it is his property as owner and possessor. Further, the respondent-University has filed an application under the provisions of the A.P.Land Grabbing (Prohibition) Act, 1982 ('the Act' for brevity) for declaration that the petitioner-appellant is a land grabber, *inter alia*, on the ground that the said property belongs to the University since the same was applied as per the procedure contemplated under the Act and therefore, the question of claiming any right by the petitioner does not arise. Even otherwise, it was stated that as against the vendor, a suit was filed in O.S.No.33 of 1989 on the file of the II Additional Subordinate Judge, Visakhapatnam, wherein it was held that the property belongs to the University. Therefore, no right or interest, whatsoever the nature, lies with the petitioner-appellant. The said application was contested on the very same ground, especially in pursuance of the purchase made on 02.11.1980. Simultaneously, the petitioner filed a separate suit for injunction in O.S.No.2 of 1995 on the file of the District Judge, Visakhapatnam against the same University and ultimately, both were taken up together for disposal in view of the provisions of the Act. The suit was dismissed and the application filed by the University was

allowed holding that the said property belongs to the University. The appeal filed by the petitioner as against the orders of the Land Grabbing Court was dismissed. Hence, these two proceedings.

Learned counsel appearing on behalf of the petitioner strenuously contended by taking into account the entire evidence that the petitioner is a *bona fide* purchaser and therefore, the Tribunals below are totally wrong in holding that the judgment against his vendor would operate as *res judicata*. Further, his possession has to be protected.

These contentions are sought to be repelled on behalf of the respondent-University.

On a consideration of the submissions made on either side and on perusal of the material available on record, the only question that crops up for consideration is as to whether under the facts and circumstances, the petitioner-appellant has made out any case in support of his ownership, title or possession.

There is no dispute in regard to the chequered events as pointed out above and filing of both the cases one by the University seeking to hold the petitioner as land grabber under the provisions of the Act and another one for suit for injunction. The entire claim of the

petitioner rests on a sale made under the registered sale deed dated 02.11.1980, followed by the permission obtained for construction. However, the fact remains that the vendor of the petitioner is the same person, against whom the decree in O.S.No.33 of 1989 was passed wherein it was held that the said property belongs to the University. Though it is contended that the said decree is much prior to the purchase and he is a *bona fide* purchaser, the fact remains that the decree would equally operate as *res judicata* against the subsequent vendee. However, having regard to the evidence and the material produced on behalf of the respondent-University and even in support of acquisition of the land, which includes the said property for its purpose as evident from the various documents filed i.e., Exs.B1 to B3, and the judgment and decree in O.S.No.33 of 1989, there is ample material in support of the claim of the respondent-University and in fact having regard to the finding of the competent Court, it is amply clear it constitutes *res judicata* and it is not open for the petitioner to contend otherwise what he could have got as a purchaser. It is bound by all such acts and proceedings, which went against his vendor. In the circumstances, we do not find any merits either in the Writ Petition or

the appeal.

Accordingly, both the Writ Petition and the Appeal Suit are dismissed. No costs.

_____

(B.PRAKASH RAO, J)

_____

(M.VENKATESWARA REDDY, J)

27th February 2007
RRB